

Disorder in the Courts (1990-2000), Part 1

[Joseph P. Bellinger](#)

The late Joseph Bellinger had intended the current article to be a chapter in a book that remained unpublished at the time of his death, The Prohibition of “Holocaust Denial.” — Ed.

The last decade of the Twentieth Century brought increasing challenges to revisionist scholars, researchers and sympathizers as existing European laws related to “Holocaust denial” were toughened and expanded to encompass greater numbers of individuals within the legal net. Especially disconcerting was the fact that several European nations soon enacted copycat legislation intended to punish and deter outspoken citizens for freely expressing their opinions on a controversial subject objectionable to Jewish organizations. These new legal measures were largely successful as a result of the determined efforts put forth by the World Jewish Congress and its affiliated agencies in their concerted attempt to outlaw “Holocaust denial.”

Indeed, Jewish groups such as the “Institute of Jewish Affairs,” an affiliated agency of the World Jewish Congress, had energetically worked to ensure the passage of anti-revisionist legislation based upon their perceptions that historical revisionism is synonymous with racial anti-Semitism. For over a decade, Jewish groups still rankled over the first Faurisson trial in France, complaining that Professor Faurisson perversely misrepresented the facts of the “Holocaust.”

Particularly irksome to Jewish sensibilities was Faurisson’s remark that the “Holocaust” had been a “hoax faked by Jews or Zionists for ulterior motives: to extort money from Germany and sympathy from the world.”[\[1\]](#)

Addressing the possible repercussions and implications attendant to the public dissemination of Faurisson’s statement, Jewish analysts argued:

These slurs, presenting Jews as the perpetrators of a despicable swindle, could, if believed, bring them into disrepute and expose them to contempt and hatred. There can be no doubt, therefore, that these defamations represent an incitement to hatred of the Jews. As the 17th Chambre Correctionnelle of Paris put it in their verdict of 5 July 1981...“in accusing the Jews publicly of being guilty through cupidity of a particularly odious lie and of a gigantic swindle...Robert Faurisson could not be unaware that his words would arouse in his very large audience feelings of contempt, of hatred and violence toward the Jews of France...”[\[2\]](#)

Responding positively to France’s prosecution of Professor Faurisson, legal analysts applauded the fact that Faurisson’s prosecution had only been possible due to precise legal terminology which declared that offended individuals and/or certain human rights organizations were legally entitled to institute proceedings against him. In this instance, the organization referred to in the matter of Robert Faurisson is the left-wing *Ligue Internationale Contre le Racisme et l’Antisemitisme*, better known by its acronym, LICRA.

Thus, the nuisance suit formally lodged by LICRA against Professor Faurisson would seem to have been politically motivated.

Rather astonishingly, the report notes with a certain amount of approbation that “It is not the denial of the Holocaust but the concomitant allegation of a ‘Jewish swindle’ that is the basis of the prosecution. Without that additional calumny against the Jews, (or, for that matter, Zionists) the mere negation of historical events does not constitute a crime under the laws of any country known to us.” [3]

However correct the assessment may be, that perception of the law and “Holocaust” denial stands in contradistinction to Israel’s passage of the world’s first “Holocaust Denial” law in 1986.

Indeed, legal analysts representing the World Jewish Congress and the Institute for Jewish Affairs were devising novel legal precedents whereby more people might be liable to prosecution by a careful rewording of current and proposed future legislation applicable to “Holocaust Denial.” In the same report cited above, the legal analysts suggest that “even if not accompanied by the charge of ‘Jewish Fabrication’ individuals might be prosecuted on the grounds that “it attacks human dignity – in this case, the dignity of the Jews or of the survivors.” [4]

The obvious intent of the critics was to reformulate “Holocaust denial” laws throughout Europe ostensibly to accommodate a disputably highly influential group of people whose sensibilities had suffered umbrage. The Federal Republic of Germany seemed to offer the most encouraging possibilities for testing new legislation designed to curtail freedom of speech throughout the European Union. In fact, the compilers of the report remark favorably upon Article 130 of the German penal code, which makes it a criminal offense to “attack the human dignity of others, in a manner capable of disturbing the public peace...by insulting them, maliciously exposing them to contempt or slandering them.”

Article 131 of the revised German penal code elicited particular interest, in that it expanded upon the definition of what may be legally prosecutable, and includes such phraseology as whitewashing a crime and declares that whoever glorifies acts of violence or makes them appear harmless will be subject to prosecution.

Jewish reaction to the newly worded legislation was mixed. Dissatisfied, yet intrigued by the wording of such legislation, legal pundits set about the challenging task of trying to revise and improve terms and definitions to their satisfaction, yet noted with ill-concealed chagrin the paradox which revisionism represents because “cruelty and inhumanity are exactly the facts they dispute.” [5]

While these matters were earnestly debated among various legal experts, Jewish Community leader Jeremy Jones, secretary of the Executive Council of Australian Jewry and Sydney director of Australia/Israel Publications, argued to outlaw “Holocaust” denial in Australia.

Sounding a familiar note of alarm, Jones opined that, “One of the most insidious and evil forms of anti-Jewish racism is the claim that the Holocaust never occurred and that the ‘Christian West’ has been the victim of moral blackmail and financial extortion. This argument is not only offensive to students of history and all Australians concerned with truth and knowledge, but has as its underlying logic a world view in which Jewish people are dishonest, deceitful, and perpetrators of massive fraud.” [6]

Jones emphasized the point that “Holocaust revisionists promote almost unparalleled hatred of Jews, who they claim have wrongly received sympathy, understanding or, in their view, or even worse – support.” [7]

Amazingly, Jones's words were an almost-verbatim rehash of what the Institute of Jewish Affairs had published in its *Research Report* in 1982.

Coincidentally, Mr. Jones had already formulated possible solutions to the problem of "Holocaust denial" which he submitted for the consideration of Australia's legislators, and suggested that "Holocaust denial" should be "clearly and specifically identified as racism and covered by the same laws that will apply to more readily understood promotions of racial hatred."^[8]

In an effort to galvanize popular legislative support for these proposals, Jones tendered his suggestions to the Australian Law Reform Commission in what was subsequently described as a "private submission." Jones urged the Commission to prosecute "Holocaust deniers" to the fullest extent provided by law and recommended that "racist motivation" be taken into consideration at the time of sentencing, in order to tack additional time onto their sentence.

In a curious aside, Jones cited by way of example the case of Sheikh Imam Taj Eldine El-Hilaly, who in September 1988 delivered a controversial speech in which he claimed that "Jews were the underlying cause of all wars and controlled the world by secret movements, destructive doctrines, Communism and libertinism."^[9]

Australia did in fact subsequently pass a "Racial Hatred Bill" which, according to former Australian Justice Minister Mr. Lavarch, "is about protection of groups and individuals from threats of violence and the incitement of racial hatred, which leads inevitably to violence."^[10]

In theory, at least, the law supposedly "does not prohibit actions or words committed in good faith in the course of any statement, publication, discussion or debate for an academic, artistic or scientific purpose or any other purpose in the public interest."^[11]

As will presently be seen, the actual application of the law prompted difficulties with this wording and will be addressed in the case of Fredrick Töben, the director of Australia's Adelaide Foundation.

The Case of Walter Lüftl

Austria proved to be the next legal testing ground when in March, 1992, Water Lüftl, a highly qualified engineer in Austria, posed a challenge to the courts following an essay he had written entitled, "Holocaust: Belief and Facts," which raised uncomfortable questions in respect to the gas chambers of Auschwitz.

Lüftl had elicited the attention of the Austrian authorities as well as the national press because he had arrived at the conclusion that the homicidal gas chambers of Auschwitz and Mauthausen, as described, were technically impossible. Based upon his own extensive research, Lüftl pronounced the described operations of the gas chambers to be incompatible with the laws of nature and scientifically refuted survivor accounts describing flames shooting directly from crematoria chimneys. Lüftl's essay also drew into question key elements of the "Holocaust story" such as the widely referenced Kurt Gerstein Report, mass murder by diesel engine exhaust, as well as published statistics in respect to cremation.

After a flurry of heated international protests, Lüftl was pressed to resign from his position as president of Austria's association of professional engineers, following which he was arrested and charged with violating Austria's "Holocaust denial" laws, which make it a crime to "deny, grossly play-down, approve

of, or seek to deny...National Socialist genocide or any other National Socialist crimes against humanity.”[\[12\]](#)

Austrian law does not prescribe prosecution or punishment for those who deny or minimize Bolshevik crimes against humanity as they do not fall within the scope of these statutes, which are exclusively applied to National Socialism and the persecution of the Jews.

Although Lüftl was initially charged with “Holocaust denial,” these charges were later dropped, and a new indictment was drawn up under a decades-old law which was drafted under Allied auspices to punish any “attempts to revive or restore National Socialism” –the same criteria which would be applied in Austria’s prosecution of David Irving in 2004.

In respect to Lüftl, the Austrian prosecutor charged that the engineer had drafted his essay “in a way that appears to be scholarly, to refute important historical facts of the National Socialist killing machinery,” and to make his report available to others whom he must “have known” would use it “publicly to whitewash and justify the National Socialist killing machinery.”[\[13\]](#)

Clearly, the flimsy charge was based upon a mere assumption on the part of the prosecution in attempting to divine the mind and intent of the essayist. Moreover, the allegation that the essay might be used or cited by self-serving anti-Semitic groups was *prima facie* absurd, in view of the fact that the material might just as easily be cited by those with opposing views for completely legitimate academic reasons.

In response to the prosecutor’s asseverations, Lüftl countered that his essay was intended to serve as a scholarly, academic, scientific study, while underscoring the fact that he did not deny National Socialist crimes overall but was merely addressing technical issues respectively.

As it turned out, Lüftl was fortunate. In June 1994, Austria’s District Criminal Court dismissed all charges. In addition, the Austrian Ministry of Justice released a statement conceding that it had been unable to uncover credible evidence proving that Lüftl had deliberately penned his essay with the intention of reviving National Socialism.

While sidestepping the issue of Lüftl’s evidence and conclusions, critics grunted their disapproval and declared that the legal ruling would henceforth provide ‘Holocaust deniers’ with a convenient loophole to camouflage their “propaganda” in the guise of scholarly reports.

German and Jewish legal strategists alike had been closely monitoring the Lüftl case, and their subsequent disappointment spurred them on to greater efforts to further tighten existing loopholes pursuant to “Holocaust denial” laws in Germany.

In respect to Germany, Herta Daebler-Gmelin, the deputy of the liberal left-wing Social Democratic Party, declared in an article published in the *Sueddeutsche Zeitung* that “It is unbearable that propagandists openly deny or minimize Nazi crimes.”[\[14\]](#)

Apparently oblivious of the brazen challenge to freedom of expression that characterized her comments, Daebler-Gmelin stressed the absolute necessity of making an example of those who “deny the Holocaust” in the only terms they will understand: prosecution and imprisonment. According to Daebler-Gmelin:

These right wing agitators do not deny or gloss over the crimes of the Nazis out of stupidity or ignorance. There is nothing new to offer by way of research and no new theories that need to be tested. No other epoch in our history has been so well researched and documented as this horrible criminal regime in Germany...The mockery of millions of victims of genocide disrupts the public peace and heaps renewed humiliation upon the survivors. All this is well known - not only by us, but also by the right wing extremists. What they are really after is to fabricate a new legend by means of ideology and propaganda. Their denial of the gas ovens of Auschwitz and the state sponsored genocide in Nazi Germany goes hand in hand with their assertion that there were neither victims nor perpetrators. The Germans will once again have to be preserved from danger – above all, from the Jews, thereby forging the same old chains to provide a spiritual justification for discrimination, for further agitation, for further terror, for further attacks. [\[15\]](#)

In summation, Daebler-Gmelin proffered an emotional appeal to German legislators: “We hope that the deputies of the other parties in the Bundestag will support our suggestions.” [\[16\]](#)

The plea did not fall upon deaf ears, yet observers in the revisionist camp were quick to perceive the fact that Daebler-Gmelin’s overall assessment had deliberately conflated legitimate, scholarly inquiry with respect to homicidal gas chambers at Auschwitz, Treblinka, Maidanek, Sobibor and Belzec with “Holocaust denial,” as if the latter is solely predicated upon unquestioning acceptance of the former, completely overlooking the fact that, while the two subjects are *relative and relevant*, the gas chambers are not by any means exclusively synonymous with the “Holocaust” per se, but serve to underscore the extent and scope of the tragedy. By way of illustration, mainstream historians generally view the gas chambers as the culmination of years of anti-Jewish persecution, rather than one singular defining episode, which, if it had never occurred, would have precluded use of the term “Holocaust” in reference to the Nazi persecution of the Jews. Moreover, it is academically debatable whether these same historians would have recast any reference to the Nazis’ policies towards the Jews in any terms other than a ‘Holocaust’ even if the gas chambers had never existed.

Nevertheless, for the Jewish people, [and this is a belief shared to a great extent by the world at large], the “Holocaust” represents the Nazis’ determined attempt to utterly exterminate the Jewish population of Europe that lay within their grasp, primarily, but not exclusively, by means of homicidal gas chambers. In fact, the very word “Holocaust” refers to a burnt offering, evoking in the minds of many commentators, horrific images of the crematoria of Auschwitz and the burning pits of Treblinka.

Perceived within this context, any denial or critical questioning of the homicidal gas chambers is perceived as synonymous with “Holocaust denial.” Concomitantly, any questioning of the overall figure of six million Jewish deaths is likewise perceived as a form of denial constituting a challenge to the veracity of the survivors and a brazen insult to the memory of the dead.

As such, revisionist historians are often portrayed as being insensitive to the suffering of the Jewish people.

Nevertheless, historians as well as scientists are under an obligation to be truthful and accurate in their investigation and presentation of facts, insofar as that is humanly possible. While one may and should empathize with the victims, the obligation to scientifically document the crime remains of paramount concern to honest scholars and researchers legitimately interested in fully establishing the truth of

precisely what did or did not occur at Auschwitz, and no aspect of evidence may be ignored to the exclusion of others, however “offensive” it may be to the mind and memory of anyone.

Yet any meaningful research into the facts of the Holocaust has been nearly stifled since the subject has been declared legally off limits to any but “establishment” historians toeing the officially accepted line. Ergo, the “Holocaust” has been declared a closed subject brooking no clarification, qualification, contradiction or revision if it happens to come into conflict with the officially accepted, legally mandated version. Restrained, intimidated and hamstrung by means of legal tyranny, highly qualified historians may soon find themselves arraigned before the courts like common criminals, facing terms in excess of five years’ imprisonment in some instances, and having no other option open to them than to ‘recant’ and “confess” in macabre Kafkaesque scenes reminiscent of Stalin’s infamous show trials. Such proceedings constitute a mockery of justice, since neither truth nor documentary evidence may be used as a means of vindication on behalf of the accused. Attorneys for the accused or judges renowned for their probity who hand down lenient sentences also run the risk of being charged, disbarred or censured. In fact, such instances are a rather common occurrence in those polities that have already criminalized “Holocaust denial.”

One need look no further than the daily news for evidence pertaining to miscarriages of justice, whereby individuals who were falsely accused and convicted of heinous crimes are suddenly, after enduring years of imprisonment, vindicated and released on the basis of new scientific evidence proving their innocence. In perhaps no other epoch of contemporary history are science and history more closely interrelated than in respect to the “Holocaust” and the gas chambers of Auschwitz, for not only is it alleged that a crime of historical magnitude occurred, but Auschwitz is also unique in that the installations allegedly used to implement the massacre still exist more or less intact and may be scientifically examined by means of the latest forensic technology. Although the crime occurred on Polish soil, it has since become, at the insistence of Jewish organizations and the United Nations, of historic interest to the international community, in spite of the fact that Jewish organizations repeatedly aver that their self-interests surpass and supersede those of the Polish state, the Catholic Church and the concomitant totality of non-Jewish victims who perished in Auschwitz. By insisting that the legacy of Auschwitz is of import to all humanity, Jewish commentators opened the door to further inquiry, leading a reasonable person to infer that Jewish organizations would undoubtedly welcome the long overdue suggestion that an independent, unbiased international team of forensic scientists ought to be commissioned to exhaustively inspect and investigate the still-extant bunkers of Auschwitz in order to lay this highly controversial matter to rest once and for all.

Unfortunately, the more prosaic reality proves that Jewish organizations have in fact jammed a wedge under the door they themselves opened by diligently working to outlaw all forms of independent inquiry pertaining to the gas chambers of Auschwitz.



In Munich on January 13, 1993 David Irving was defended by lawyers Hajo Herrmann (center), and Herbert Schaller (who also acted successfully for him in Vienna in 2006, aged 84).

Source: Focal Point http://www.fpp.co.uk/Irving/photos/1990s/Munich_lawyers_130193.html

David Irving Fined

Auschwitz again became the focus of international attention when British author David Irving was fined the equivalent of \$6,000 by a Munich court on 5 May 1992 for “denying that Jews died in the gas chambers of the Auschwitz concentration camp,” and “disparaging the memory of the [Jewish] dead.” [17] German Judge Thomas Steltzner rejected Irving’s appeal of a previous fine of \$4,300 for remarking during the course of a meeting held in April 1990 in Munich that the building shown in Auschwitz as a “homicidal gas chamber” was in fact a phony reconstruction [*Atrappen*] built after the war. Steltzner responded by increasing the fine because of Irving’s apparent ‘lack of understanding’ and the fact that he had earned money from disseminating his opinion that the Auschwitz gas chambers were lies.

Refusing to retract his previous statements, Irving defiantly declared to the presiding judge, “I have found not one piece of evidence that there are gas chambers at Auschwitz.” [18]

Irving’s attorneys attempted to call a certified chemist, Germar Rudolf, to provide expert testimony that “the buildings in question at Auschwitz were never used as Zyklon B gas chambers, for killing people.”

Rudolf’s testimony was abruptly cut short by the judge the moment the question of the gas chambers was raised by defense counsel. After a flurry of protests from Irving’s attorneys, the judge proceeded to rule that all testimony pertaining to gas chambers was inadmissible.

When asked by counsel to explain his bizarre ruling, the flustered judge managed to stammer that the testimony “of the expert witness, certified chemist Rudolf, is completely unsuitable for evidence” in this case, and noted that Rudolf had not actually been questioned on the issue of gas chambers anyway.

Flabbergasted by Stelzner's response, Irving's advocate reminded the judge of his own ruling, which had forbid Rudolf to testify on the subject of the gas chambers in the first place!

In response, the judge painfully stuttered, "I, uh, can only confirm that the witness was not asked about this."

Although the judge himself conceded that the structures shown to tourists at Auschwitz are not the original "gas chambers," he nevertheless proceeded to reject every exhibit and expert witness for the defense on the grounds that the Auschwitz gas chambers have been historically proven.

"If that is true," the attorney interjected, "what would anyone have to lose by permitting Rudolf to testify?"

Judge Selzner replied, "Uh, well, time would be lost. It would also be illegal."

In effect, the judge's statement seemed to suggest that when the truth becomes uncomfortable, all one needs to do is outlaw it!

Perturbed with the judge's wretched equivocations, attorney Klaus Goebel protested:

I have the impression that this court has something to hide, otherwise it would permit the expert witness to testify. I understand that the prosecuting attorney and the court is under political pressure. Nevertheless, the accused must be given the opportunity to prove his statements. It is intolerable that in a society of law that you can prevent me from questioning the expert witness about his on-site work, and then reject him because he was not asked about this. You are preventing any discussion of a matter of evidence. [19]

Replying to these objections, the judge insipidly droned, "Yes, it may very well be that, from your point of view, I am hindering the presentation of the defense case."

The court also refused Irving's request to subpoena Franciszek Piper as a witness for the defense. At the time of the trial, Piper was serving as the director of the Auschwitz State Museum in Poland, and Irving's attorneys intended to ask Piper, under oath, to confirm that he had "confided to Freiburg historian Prof. Martin that the Auschwitz "gas chamber" shown to tourists was actually a phony reconstruction."

As witness after witness was rejected, Irving's two exasperated attorneys stalked out of the courtroom in protest, whilst the court spectators burst out in supportive applause.

In his closing statement to the court, David Irving, confident and defiant, declared that the hearing was in fact a political trial in which the verdict had already been decided upon before it began.

Irving noted that, prior to the trial's commencement, he had sent out to various German historians detailed photographs of Auschwitz taken by Allied reconnaissance planes in 1944, asking them to examine them and point out where the alleged gas chambers were located. With obvious disdain in his voice, Irving dryly commented that not one of them had the courage to reply.

Irving concluded his statement by admonishing the judge: "We both have our duties. My duty as historian is to establish the truth. Your duty is also to establish the truth, but you have a problem in Germany." [20]

Germany's ultimate response to the problem of David Irving was to refuse to consider any further appeals of the verdict, after which the combative historian lodged a protest with the European Court of Human Rights in Strasbourg. One year thereafter authorities in Munich permanently banned David Irving from setting foot on German soil, ostensibly because 'revisionist, right-wing extremist and neo-Nazi groups' continue to express their desire to have Irving speak at their meetings.

Hans-Peter Uhl, a district governmental official declared, "Public appearances in Munich by people such as Irving cannot be tolerated." [21]

In attempting to justify the ban, German authorities declared they had neither the time nor the desire to attend all of Irving's numerous lectures in order to monitor his statements for possible violations of the law.

According to the directive, Irving's public appearances had helped to endanger public security and order, thereby seriously harming the reputation of the German Federal Republic. German officials issued this ban, at least in large part, in response to pressure from foreign organizations that are seeking to suppress dissident revisionist views of the "Holocaust extermination story." [22]

In more practical terms, Irving's presence in Germany would henceforth constitute an act of "incitement" by inciting the authorities to take him into custody and deport him.

Prosecution of Revisionists in Switzerland

One year following Irving's trial in Munich, Swiss legislators appended Article No. 261 to the nation's existing penal code. Although ostensibly dealing with hate crimes, the all-too-familiar wording of the law indisputably proved that "Holocaust deniers" were the primary target behind the legislation:

He who in public incites to hatred of or discrimination against a person or group of persons because of their racial, ethnic or religious relationship...He who in public propagates ideologies based on a systematic deprecation or defamation of members of a race, ethnic group or religion...He who for this same end organizes, promotes or takes part in propaganda activities...He who in public by means of the spoken word, writings, pictorial descriptions, gestures, acts of violence and in any other manner degrades and discriminates in a way that infringes the human dignity of a person or group of persons because of their racial, ethnic or religious relationship, or who for one of these reasons denies, grossly minimizes or tries to justify a genocide or other crimes against humanity...will be punished with jail or with a fine. [23]

Three months later, a brilliant Swiss pedagogue, Jürgen Graf, was abruptly suspended after passing out copies of his premiere revisionist book *The Holocaust on the Test Stand: Eyewitness Reports versus the Laws of Nature*, to colleagues, journalists and politicians across Switzerland.

The courageous teacher crossed his Rubicon fully cognizant of the possible repercussions of his act. Although Graf never discussed historical matters in his classes where he taught Latin and French, Swiss Federal Education Authorities brusquely declared that, under the circumstances, he "obviously" could not remain a teacher.

Unbeknownst to Graf, his tribulations had only just begun.

In July 1998, the then-47-year-old Graf was charged, tried and convicted of allegedly publishing anti-Jewish books. Convicted along with him on the same charges was 78-year-old retired engineer Gerhard Förster. Both men received fines and prison terms – 15 months in the case of Graf and 12 months’ imprisonment for Förster. The court also imposed an additional fine of 8,000 Swiss francs (\$5,000) and ordered both men to relinquish over 55,000 francs (38,000) from their earnings as a result of book sales to the court. Förster was ordered to pay 45,000 and Graf, 10,000. [\[24\]](#)

While imposing sentence upon the defendants, Presiding Judge Andrea Staubli referred to their “remarkable criminal energy,” as a factor compounding their guilt, and cited their apparent lack of remorse as a contributing factor in her decision not to impose a more lenient sentence. The five members comprising the court - three women and two men, unanimously concurred in their verdict.

Judge Staubli rejected the defendant’s arguments that their books were scholarly. In the opinion of the judge, Graf’s meticulously researched books were “criminal, cynical and inhuman.”

Graf and Förster appealed the harsh verdict.

News coverage of the trial in Switzerland was generally unfavorable toward and slanted against the accused. A front-page commentary published in the popular daily *Tages-Anzeiger* (July 22, 1998) warned its readers that the defendants were not as harmless as they appear. Arguing in favor of the court’s harsh sentence, the newspaper proclaimed:

Holocaust deniers, with their unspeakable theories, injure the human dignity of the Jews, the memory of the victims, and their history...Their goal is to stir up hatred against the Jews, and their hidden motive is to whitewash the National Socialists and make their dangerous ideology once again acceptable. [\[25\]](#)

The newspaper conspicuously failed to explain by what means it had actually divined the “hidden motives” of the accused.

Two years following Graf’s conviction, 79-year-old revisionist publisher Gaston-Armand Amaudruz was convicted in a Swiss court and sentenced to one year imprisonment for “denying that millions of Jews were exterminated in gas chambers by Nazi Germany during World War Two.” [\[26\]](#)

Mr. Amaudruz was placed on trial due to published comments he had authored in his monthly newsletter, *Le Courier du Continent*, with a circulation of 400 subscribers. The offending passage read: “For my part, I maintain my position: I don’t believe in the gas chambers. Let the exterminationists provide the proof and I will believe it. But as I’ve been waiting for this proof for decades, I don’t believe I will see it soon.” [\[27\]](#)

One day prior to the commencement of his trial, Amaudruz composed a deliberately provocative article entitled, “*Long Live Revisionism*,” in which he averred, “My trial is a political trial. The judgment is purely opportunistic. I prefer to follow my conscience rather than an immoral law of a criminal nature. I maintain my point of view.” [\[28\]](#)

Ostensibly as a result of concerns expressed by the suing civil parties, the Court precluded any presentation of evidence by the defense contesting the existence of homicidal gas chambers by taking “official notice of their existence,” based upon the asseverations of former concentration-camp survivors and prior precedents established by the Swiss Supreme Court.

Underlining his enthusiastic support of this strategy was attorney Philippe A. Grumbach, who energetically took part in the campaign to outlaw “racism and anti-Semitic conduct” in Switzerland, resulting in the ratification of Article 261, later appended to the Swiss penal code. Coincidentally, Grumbach is also a member of the Swiss Committee of LICRA (International League against Racism and Anti-Semitism).

In November 2001, Grumbach was elected as President of the CICAD, (*Coordination Intercommunautaire contre l’Antisemitisme et la Diffamation*) which is described as an “independent association fighting against Anti-Semitism in all its guises by teaching the history of Anti-Semitism and the Shoah.” [29]

Grumbach’s peculiar nomenclature transforms “Holocaust” revisionism into “*negationist propaganda*,” which he defines as a “denial of the existence of the gas chambers, minimizing the number of Jews killed in the Holocaust and asserting that Jews derived an economic advantage from this period of their history.” [30]

Expanding upon his definition of the word, Grumbach avers that “negationism is a form of racial discrimination which causes offence to the community to which the victims of genocide belong.” Grumbach attempts to argue that Article 261 of the Swiss Penal Code does not inhibit free speech or debate or the right to freedom of expression, but “seeks only to prevent the publication of statements the purpose of which is to minimize the importance of crimes against humanity or which aims at negating their barbarous and monstrous nature. Establishing the element of deliberate racist motivation plays a crucial role in the enforcement of this provision.” [31]

However one chooses to interpret Grumbach’s legalese, the end result is censorship and prosecution for thought crimes, and the fact remains that these laws to date have only been used to prosecute individuals who raise valid evidential questions and doubts in respect to Nazi Germany’s internment of the Jews.

Grumbach’s irritation with revisionism becomes manifest when he complains that “Amaudruz’s articles in *Le Courrier du Continent* all contain extracts which purport to negate the existence of the gas chambers, cast doubt on the extent of Shoah and in effect deny its existence and make reference to blackmail for which the figure of six million victims was allegedly used.” [32]

At other times, Grumbach refers to the Holocaust in quasi-religious, mystical tones when he writes “the Lausanne Court found that these extracts constituted a serious affront to the dignity of Jews in general. The Court also recognized that these extracts amounted to an offence against the sacrosanct memory of the victims as well as a defamatory attack against the history of the Jewish community.” [33]

After due consideration of Mr. Grumbach’s published opinions relative to “Holocaust denial,” the rationale prompting his comment that, “The main concern of the Court and the Associations and civil plaintiffs was to avoid making the history of the Second World War the central issue of the trial” becomes more vividly understood. [34]

Conversely, Amaudruz had no other option available to him other than to contest and protest the legality of the Swiss law applicable to “Holocaust denial.”

On the day of sentencing Judge Carrard described the accused as a “life-long racist” who “showed no remorse” during the course of his three-day trial, and ordered the accused to pay the court costs of his

trial, along with an additional fine in the form of “damages” to four Jewish organizations that had filed suit against him.

The organizations in question were the Federation of Swiss Jewish Communities, the League against Racism and Anti-Semitism and an organization entitled ‘*Les Fils et Filles des Deportees Juifs de France*,’ the latter claiming to represent sons and daughters of Jewish deportees from France during the Second World War. Serge Klarsfeld, a widely recognized “Holocaust” activist, serves as president of the latter organization and was personally present at the trial of Amaudruz.

In his concluding statement to the court, Jürgen Graf made reference to his “friend in western Switzerland, Gaston-Armand Amaudruz, against whom a trial is being prepared in Lausanne that is similar to the one here today against Förster and me. In issue number 371 of his *Le Courrier du Continent* newsletter, Amaudruz writes: ‘As once in early historical times, it is a sign of weakness to try to impose a dogma by force. The exterminationists may win trials through laws that muzzle freedom of speech. But they will lose the final trial before the court of future generations.’” [\[35\]](#)

Such idealistic phrases might very well be lost on Philippe Grumbach, who expressed his overall satisfaction with the Amaudruz verdict in the following terms:

The importance of Amaudruz’s trial and conviction and the keen interest with which it has been followed, has been widely acknowledged in both the Swiss national and international press. A man of advanced years, Amaudruz nonetheless represents a threat to society, as do all Holocaust deniers...There can be no doubt that the fight must be continued against all Holocaust-deniers and racists for the simple reason that those who forget the past, are condemned to relive it. [\[36\]](#)

Put in other words, Grumbach evidently feels that if the scientific arguments advanced by revisionists should be vindicated, he may very well be condemned to a gas chamber at some point in the future.

Against such fanatical ‘logic’ it is impossible to argue.

David Irving Banned from Auschwitz

In October 1997, David Irving received an invitation from the BBC to assist in a proposed documentary dealing with the suppression of free speech in Europe. Irving accepted the invitation and contacted officials at the Auschwitz State Museum to request permission to peruse their archives for documentation related to construction plans, administration, and photographs of the camp.

Approximately one month prior to his scheduled flight to Poland, Irving received a message from BBC producer Nicholas Fraser, advising him:

We’ve just received notice from the Auschwitz Museum, to the effect that they will not allow you access to the library or to any of the camp grounds. They control every inch of what used to be the Auschwitz complex and it would seem that we would be unable to film with you there. Reluctantly we have decided that we can’t go ahead with our original plan. It just isn’t possible.

Needless to say I am very sorry about this and I have tried in vain to convince the museum that this is not necessarily a way to promote freedom of speech. However, they are quite adamant and there is nothing I can do. We propose instead to film with you in London... [\[37\]](#)

Irving quipped, “What are they fearful of? It shows a grave insecurity, a lack of historical detachment. It’s like the suspect saying, “We don’t mind investigators – just don’t let in Lieutenant Columbo!” [38]

It would seem that Irving’s clever analogy had grounds. During the course of an interview granted to a journalist working for the prestigious French newsmagazine *L’Express*, Museum official Krystyna Oleksy candidly conceded “the room shown to tourists as a supposed execution ‘gas chamber’ in its ‘original state’ is a fraud actually built after the war under Polish Communist supervision.” [39]

Of course this is what David Irving had maintained all along, the difference between the two being that Oleksy wasn’t fined for her comments or banned from entering Germany or France for saying it. Rather astoundingly, however, Irving is banned from Auschwitz!

Considering the circumstances involved, it would perhaps not be unreasonable to conclude that it was a combination of factors, such as fear, embarrassment and irritation, which prompted the Auschwitz curators to deny David Irving access to their archives. It is tempting to speculate what further admissions might have ensued if the intrepid Irving had been allowed full access to the extensive Auschwitz repository.

In the midst of these expanding international controversies and perversions of justice, revisionist historians continued to insist that the scientific evidence suggested that the homicidal gas chambers of Auschwitz were in fact either a post-war creation, or were simply morgues attached to the crematoria buildings that were later misrepresented as gas chambers. In response to this ongoing research, the German government beefed up its “Holocaust denial” laws by appending an amendment to the existing legal code, after receiving repeated complaints and exhortations from the Central Council of Jews in Germany and affiliated agencies, who complained that not enough was being done to stem the tide of revisionism and ‘racism’ in the Federal Republic.

This new amendment prescribed harsher punishments for any individual running afoul of the new provisions. Whereas under the old law terms of up to one year’s imprisonment were prescribed for offenders, the new law provided a prison term of up to five years or a fine. Spokespersons for interested Jewish organizations expressed their general satisfaction with the new legislation.

In 1994 two German judges faced the possibility of being arraigned on a charge of “inciting racial hatred” in Frankfurt after giving Guenther Deckert a suspended sentence on charges of “denying that the Holocaust happened.” [40]

Abraham H. Foxman, National Director of the Anti-Defamation League of B’nai B’rith lent his own voice to the chorus of critics and sent a letter to the president of the Federal Courts in Germany, Professor Walter Odersky. Foxman urged the court to affirm the “undesirability of the Holocaust” and applauded “legislative efforts now underway [that] will make it easier for judges in Germany to punish hatemongering and incitement to violence against minorities.” [41]

Deckert, who was 55 years old at the time, had been charged with “defamation of the dead,” and “inciting racial hatred.” The former school teacher and leader of a small nationalist political party, the 5,000-member “National Democratic Party,” had run afoul of German law after hosting a meeting which featured Fred Leuchter, an American expert in execution technologies.

During the course of this public meeting, Leuchter expressed his professional opinion, based upon an on-site examination of the purported execution facilities at Auschwitz and Maidanek concentration camps, that the structures simply could not have been used for the purpose of mass murder, as had been alleged. Deckert translated the speech into German and publicly expressed his agreement with Leuchter's conclusions. At no time during the course of the meeting did either man preach or advocate 'hatemongering', much less incite anyone to violence against minorities.

In fact, in the strict legal sense, it is academically debatable as to whether Foxman's letter to the president of the Federal Courts in Germany constituted an incitement to persecute and unjustly prosecute Deckert and Leuchter, who clearly represent a 'minority.'

The two jurists who had presided over Deckert's case were suspended and subsequently reinstated, but prosecutors were clearly displeased by the judges' characterization of the affable Deckert, whom they described as "an intelligent man of character and clear principles which he takes to heart...He defends those convictions with great engagement and a considerable amount of time and energy. The accused has stood up for a legitimate interest by trying to fend off further Holocaust reparation requests against Germany – half a century after the Holocaust." [\[42\]](#)

After an unholy furor had been deliberately stirred up in the cauldrons of the world press, the two judges predictably recanted.

The presiding judge assigned to the Deckert case, Wolfgang Mueller, could only manage to mumble a few words of penitence to the effect that the judge's choice of words had been "unfortunate formulations." [\[43\]](#)

Germany's Federal Court of Justice intervened and ordered a regional court in Karlsruhe to review the case and impose a new sentence, which it did in December 1994. Deckert was thereafter sentenced to two years' imprisonment for "denying the Holocaust."

Unbowed and unrepentant, Deckert vowed to "continue the struggle for freedom of thought, research and opinion." [\[44\]](#)

Ignaz Bubis, the former chairman of the Central Council of Jews in Germany, expressed his satisfaction with the verdict and groaned that Deckert's revisionist opinions constituted a direct attack upon Germany's democratic constitution and urged other European nations to enact similar laws restricting freedom of speech for those who dared to publicly challenge the mainstream version of the "Holocaust." Bubis admonished, "It is time for the European countries to busy themselves with this." [\[45\]](#)

As if acting on cue, European countries proceeded to do just that, beginning with Switzerland.

In 1995, Spain and Belgium jumped on the bandwagon and outlawed 'Holocaust denial.' In the case of Belgium, the government had apparently been under pressure from various Jewish organizations that took offense at Belgium-published revisionist literature. A triumphant article printed in the *London Jewish Chronicle* candidly revealed that "the Belgian Government intends to co-operate with B'nai B'rith in prosecuting the publisher, printer and distributor of a Dutch-language revisionist pamphlet printed in Antwerp." [\[46\]](#)

Thus, Jewish watchdog organizations and the Belgian government acted in collusion together, working hand in hand in prosecuting revisionist researchers.

The laws subsequently promulgated in Spain and Belgium were formulated along similar lines as those already existing in Israel, France and Germany. In Belgium, two Socialist Party members of Parliament, Yvon Mayeur and Claude Eerdekens introduced the law, which provided for up to one year's imprisonment and a \$160.00 fine for those found guilty of violating its provisions.

In fact, the wordings of the various "Holocaust-denial" laws are so strikingly similar to laws in other European nations that one might be tempted to conclude that they all bear the stamp of a common author.

On March 1, 1996, twenty-one scholars and historians from various universities throughout Italy published a statement in defense of free speech and historical research. The professors courageously criticized the enactment of "Holocaust-denial" laws in France, Germany and other countries, specifically citing a French government ban on a book authored by Jürgen Graf simply because it denied the "Holocaust." The scholars pleaded for reason to prevail over repression:

We are appealing ...to the scholarly community to which we belong, and also to the political world and to the press, so that they react to this state of affairs, and put an end to a tendency that wherever it develops, may put freedom of speech, press and culture in European countries at risk. [\[47\]](#)

Needless to say, the sensibly worded appeal fell upon deaf ears, for the milieu in which "Holocaust denial" laws were first devised was precisely in those areas alluded to by the Italian professors - the political arena and the world press. Thus, "Holocaust-denial" laws were purposely *designed* to curtail freedom of speech and subvert other fundamental human rights. Practically speaking, human rights in Europe were no longer 'at risk' – they were in fact in headlong flight under attack by tyrants posing as moderate liberals.

Far from prompting a crisis of conscience, the legal repression of French and German revisionists escalated when on October 23, 1996, French lawyer Eric Delacroix was convicted by the XVIIth Correctional Chamber of the Paris Tribunal under the Fabius-Gayssot law, which prohibits criticism of the Nuremberg trials. Thus, counsel for those accused of "Holocaust denial" were now themselves susceptible to prosecution and at risk of being disbarred for defending their clients too energetically. Under such circumstances, the client-attorney relationship is critically ruptured, and becomes a mere mockery of justice. Truth be told, these repressive laws are precisely designed to deprive individuals of their basic civil liberties. These deleterious laws constitute a negation of the fundamental right entitling every accused individual to retain the best possible legal defense available when facing the possibility of years of imprisonment.

One suspects that the ultimate objective of such laws is to dispense with the farce of a public trial and simply sentence the accused in a sub-rosa star chamber comprised of a camarilla whose members are specifically appointed to impose the proper draconian sentence upon the accused without any attendant publicity. No other qualifications are necessary and there is no point in pleading or argumentation, as proof of guilt is already established by virtue of being denounced and accused.

While this Kafkaesque scenario may appear shocking to the sensibilities of those who truly value civil liberties and freedom of speech, the fact is this is precisely the sinister direction in which current "Holocaust-denial" laws are heading.

St. Martin's Press Drops Irving

David Irving was once again the center of media attention in 1996 when, “in the wake of unprecedented protests from respected literary figures and outrage from the Jewish community, the New York-based St. Martin’s Press reversed its decision to publish *Goebbels: Mastermind of the Third Reich*.”^[48] Company executives had convened an emergency meeting that April by company Chairman Thomas J. MacCormack, after Irving’s book had been unjustly denounced and panned by the usual critics as a “distortion of history expressing sympathy for Nazism.”

Irving had been forced to turn to publishers in the United States following a successfully orchestrated smear campaign by similar groups in Great Britain, which resulted in his book being blacklisted.

The Los Angeles-based Simon Wiesenthal Center candidly confirmed the fact that pressure on St. Martin’s not to confer legitimacy upon Irving by publishing what it sarcastically referred to as “the novel” was intense.^[49] In its magazine, *Response*, the Center proudly published a prototype of the poison-pen letters that inundated St. Martin’s in an attempt to force them to abrogate their contract with Irving. The Center cited an excerpt from a scathing letter penned by bestselling Jewish author Jonathan Kellerman, who wrote:

David Irving’s identity as a neo-Nazi and Holocaust denier is well known, and because of it he has been forced to self-publish in the U. K. Your attempt to elevate him to mainstream status in the U. S. is the single most repugnant act I’ve witnessed in over a decade of publishing. You should be ashamed of yourself. Don’t send me any more books for blurbs. Anything with the St. Martin’s label on it will go straight in the trash.^[50]

Sadly, instead of ignoring the rants of a highly organized minority of unappeasable critics, St. Martin’s opted to trash Irving. In spite of the best efforts to stifle its publication, Irving’s book still went on to become widely read and much debated.

Udo Walendy

The case of Udo Walendy, who was sentenced to 15 months’ imprisonment in 1997, merits special mention because it reveals the ludicrous depths to which German jurists will descend when attempting to individually interpret and apply laws specifically concerned with “Holocaust denial.” At the time of his sentencing, Walendy was seventy years of age, having been previously sentenced in 1996 to a term of 29 months’ imprisonment for publishing two controversial issues dealing with the “Holocaust” in his series, *Historical Facts*. The two offending issues, numbered 66 and 68 respectively, had crossed the legal line by questioning specific details related to the “Holocaust.”

During the course of his summation, presiding judge Kroener explained that Walendy was not being sentenced on the basis of what he had written, but for what he had failed to write!

Lecturing the accused, Judge Kroener declared,

This [case] is not about what was written – that’s not for this court to determine – but rather about what was not written. If you had devoted just a fraction of the same exactitude to highlighting the other side [of the Holocaust issue] you would not have been sentenced. However, your total one-sidedness is precisely the opposite of the scholarly method. You continually suggest to your readers that if this and that point [of official Holocaust history] is not correct, the rest can’t quite be true either. In this way, the Holocaust is reduced to the level of an industrial accident.^[51]

In handing down judgment, the court ruled that the accused had left historically factual information out of his précis, which the judge felt would have given the articles more balance, and for that reason, he was guilty.

The judge expressed his irritation with Walendy in the following terms:

Walendy, on a very scholarly, historical basis, cites "quotations and facts that contradict," in many specific points, the accepted version for German guilt for the Holocaust and other National Socialist crimes and seizes on weak points...and greatly blows them up in order to encourage a feeling of doubt in the reader.

One observant wag later perceived Walendy's predicament in the following terms:

A man accused of a crime stands before the court. As it later turns out, the suspicion is unfounded, but the judge condemns him anyway. Not because he committed the crime, but because he didn't commit it.

The presiding judge obviously did not concur with that sentiment and most likely viewed Walendy as a "recidivist offender" in view of his past collisions with the law. For example, in November 1996 Walendy was fined 20,000 marks by a district court in Dortmund for having in his possession twelve illegal copies of Adolf Hitler's *Mein Kampf*. The judge noted sourly,

The planned distribution of the books manifests an extreme and therefore particularly dangerous mindset. The books are propaganda for dismantling the constitutional and legal system of the Federal Republic of Germany, and establishing a National Socialist system of injustice...This must be judged very severely. [\[52\]](#)

However, judging by the appearance and physical condition of the offender, who at the time was 70 years of age and suffering from progressive heart disease, it would seem that the judge's characterization of him as an "agitator" intent on "dismantling the constitutional and legal system of the Federal Republic of Germany" in order to "establish a National Socialist system of injustice" seems a bit far-fetched.

Contrary to the judge's evaluation of the man, Walendy had earned a "Diplom-Politologe" certificate in 1956 affirming his specialized field of academic study and knowledge, having also graduated from the prestigious German Institute of Political Science as well as the Aachen School of Journalism. Additionally, Walendy worked for a time as a teacher in the employ of the German Red Cross and served as director of the *Volksschule* in Herford.

In spite of all the impressive credits to his name and reputation as an educator and scholar, his unwavering commitment to historical accuracy inevitably led to a collision with Germany's "Holocaust-denial" laws. As the German translator and publisher of Professor Arthur Butz's *Hoax of the Twentieth Century*, which was later banned by German authorities, Walendy was arraigned before a court and convicted of 'incitement' - presumably against Jews. His subsequent conviction resulted in a 15-month penalty tacked onto his previous conviction, both sentences to run concurrently. For a man of Walendy's age, this could very well amount to a sentence of death in prison. Such a grave misapplication of justice for one man's "crime" of honestly expressing his opinion and refusing to retract has rarely been seen since the days when brute beasts of the field were arraigned before medieval magistrates to answer for 'crimes,' after which they were duly hanged, drawn and quartered or burned at the stake.

Speaking of which, on a lighter note, a rather odd case distributed in the world press on October 10, 2003 related the story of Roland Thein, age 54, of the Berlin suburb of Lichtenrade, who had trained his black sheepdog, named Adolf, to raise his front paw in a Hitler salute. Thein was stopped and questioned by police after he and his dog had been seen saluting together in the vicinity of a local school. A group of alien residents observed the antics and reported Thein to the police.

Moments after police arrived, Thein repeated the little trick for their entertainment, ordering, “*Adolf, sitz! Mach den Gruss!*” [Adolf, sit, give the salute], and the dog obediently obliged by hoisting his right paw in the air. The police were not amused and took Thein and his dog into custody. German prosecutors charged Thein with “using the characteristic marks of an unconstitutional organization,” - a punishable offense that falls under Paragraph 86a of the Federal Criminal Code, which forbids neo-Nazi activities, and prescribes a penalty of three years’ imprisonment, if convicted.

A spokesperson for the Berlin criminal court declared that “Adolf” would not be called as a witness. Thein’s attorney, Nicole Burmann-Zarske, told reporters, “Adolf is a very sweet dog. He loves cookies, just like his owner.” A friend of the accused later informed reporters that the dog had since been struck by a car and suffered a serious injury to its right paw, dejectedly adding, “It’s all bent, he can’t stick it out anymore.”

Thein was fortunate to be let off with probation.

In a far more serious case, by way of contrast to Udo Walendy’s treatment, two former East German border guards were arraigned before a court in Magdeburg and charged with the cold-blooded shooting of a 15-year-old boy attempting to flee to freedom in the west. Found guilty of the crime of homicide, they each received 15 months’ probation – just one month’s probation for each year of the victim’s life. [\[53\]](#)

In consideration of the circumstances involved in the prosecution of Udo Walendy, there appears to be no doubt whatsoever as to which ‘mindset’ constitutes the greater danger to society and civil liberties.

Within the same year, Guenter Deckert was denied parole at the insistence of the state prosecutor, even though Deckert had already served 2/3 of his sentence. In the bizarre domain of contemporary German jurisprudence, violent offenders served less time than Deckert and were quickly reintegrated back into German society. [\[54\]](#)

Meanwhile, Erwin Adler, a 62-year-old lecturer in politics and social science at the University of Munich, where he had been employed for twenty-five years, was summarily suspended for questioning the existence of homicidal gas chambers. University rector Professor Andrew Heldrich disagreed with Adler’s opinion, which he characterized as “frightful and unacceptable,” and confirmed that the outspoken professor would be summarily dismissed due to his “lack of sensitivity.”

An unidentified reporter from the *Sueddeutsche Zeitung* had attended Adler’s lecture, surreptitiously taping the professor’s comments, which were later cited in the press. During the course of his provocative lecture, Adler freely admitted that the Jews had been removed from society by a variety of methods but rhetorically posed the question:

Were they gassed systematically or were they not gassed?

Responding to his own query in the form of an afterthought, the professor commented: “On that I must withhold my personal opinion. I simply do not know. I wasn’t there,” and pointed out that whether an inmate actually perished as a consequence of starvation, shooting, beating or epidemic, the end result is still the same. “So what,” asked the professor perplexedly, “is all the fuss about gassing?” [\[55\]](#)

Notes:

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- [\[2\]](#) Ibid, pp. 2,3.
- [\[3\]](#) Ibid, p. 3.
- [\[4\]](#) Ibid, p. 5.
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- [25] Ibid.
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- [29] General biographical information may be accessed at: <http://www.praetor.ch/en/cv/grumbach/grumbachbio.htm>
- [30] "Notorious Swiss Holocaust Denier Imprisoned," *Justice*, Summer, 2000, p. 13, cited above.
- [31] Ibid.
- [32] Ibid.
- [33] Ibid.
- [34] Ibid.
- [35] "Swiss Court Punishes Two Revisionists," *The Journal of Historical Review* Vol. 17, No. 4, July-August, 1998, p. 9.
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